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Draft Letter to the court regarding proposed sentencing of Steve Cohen (SAC Capital)

Judge Laura Taylor Swain

Daniel Patrick Moynihan United States Courthouse

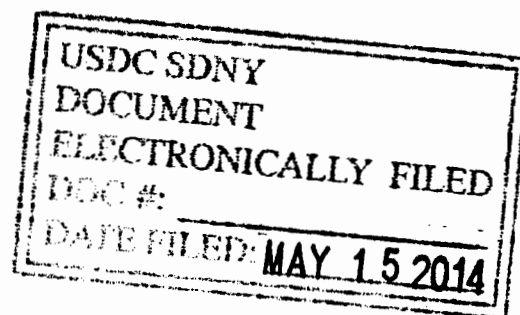
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I write this open letter to the court to oppose the use of the RICO law to prosecute crimes other than violent crimes such as would be commonly referred to as public enemy number 1

Examples of this may be Al Capone, Black Tuna and recently "El Chapo" Guzman. Historically "drug lords" and cartels operated where the powers of the government was limited in obtaining evidence and conviction and where the damage to the public was immediate risk of body and limb.

RICO law has such broad sweeping powers that it may be applied to those whose political beliefs or dress or conduct may be in opposition to a seated government. Rappers, artists, talk show hosts whose comments or songs may inspire others to verbal acts of conscious can find themselves under the RICO umbrella and will be on an unpublished "enemies list"

Popular culture songs often carry messages to challenge and, contrary to "the establishment" norm, RICO law may be applied in the not so distant future to silence these lawful critics.

At the present, a sitting prosecutor has 79 straight convictions using this law. This is akin to a dealer in Las Vegas dealing himself blackjack 79 times straight. Something is wrong here, very wrong. This open letter is not about a personality or a judge in a specific case although there is some history of those prosecuting under RICO using their successful conviction record as a stepping stone to higher office. Such is human Nature.

People are human and so are prosecutors.

This is about the Bill of Rights, The Constitution where this law overshadows all rights given to us as Americans by The Almighty

The RICO law is Draconian. RICO powers are broad and vague deliberately since acts in RICO are already covered. RICO in the hands of those with a political agenda can stop all opposition from any source. Those who may be guilty of lesser offenses and can be rehabilitated and return to society to create jobs are forever stigmatized with a criminal felon record. Their business careers are mostly over. Often initial charges are brought with great fanfare at a public press conference by the prosecutor. The message is "WE GOT OUR MAN". The accused's assets may be frozen; bank accounts, credit cards, everything. In the meantime the accused has little time to answer the charges and is dumfounded and stunned by the public circus where his good name (remember innocent until proven guilty) is blackened.

History books are full of the founders: the builders of American Industry with less than pristine motives and conduct. Who would have built out railroads and industries? Banking and bankers are now in the crosshairs of prosecution. Banking is global. Money is fluid.

At some point in the application or fear of RICO application, bankers may just make the decision to relocate to friendlier countries. We, the United States, may lose our position as the number one market to raise capital, which creates the new jobs that we are so desperate to have.

At the present rate, many bankers are at risk unknowingly. RICO covers unintentional violations so broad is its reach. They may decide to leave the US and go elsewhere simply because everyone is in violation of one or more of the thousands of laws to regulate banks. Wall Street will be second, third or fourth but not the first choice to list and raise money. Ellis Island will become a federal penal colony for convicted bankers.

Where will we go to get a mortgage when all the bankers are in a penal colony? When even the excellent bankers who have been Patriots in our time of economic distress are now at risk? Where will Jamie Diamon work? He and his bank have floods of government regulators looking into everything with a myriad of complex obtuse laws that few understand and none have mastered. Where were they when Mr. Daimon saved our economy by agreeing to buy a mortgage company fraught with regulatory problems? He acted under pressure from government to be a Patriot and now he and his bank are fined and publically humiliated?

If anything Mr. Diamon and several other Bankers should be taken to the White House and given the highest award a civilian can get as they put the country first ahead of personal and corporate gain.

London, Hong Kong, Dubai would welcome our bankers with open arms.

Also it will be clear why few corporate leaders have come forward to oppose misuse of RICO they will make themselves in the target RICO prosecutors can always find some violation.

The public is easily manipulated by these well orchestrated press conferences where RICO charges are brought. The overall impression for average viewer is that the man is guilty and that "they got their man."

We can easily forget the thousands of laws that apply to industries in financial regulation. Recently, small banks were covered by so many new laws that they could not understand, let alone implement, that a hiatus was agreed to in their implementation.

In addition, Rico is now used in state prosecutions. The accused is dead in the water, adjudged in the court of public opinion GUILTY before the case is tried as friends and business associates distance themselves. Relatives may stay with "I told you so".

RICO cases are often settled. This should be even more upsetting because a fundamental right of the due process has been skillfully waived. The accused is told to settle and that he may be incarcerated in a facility deprived of his wife and family and perhaps with those of deep criminal and deviant behavior. Statistically his wife will stay for a few years then drift to others. His children bear the stigma and scars forever.

We are looking for jobs in today's society. Who better to create these jobs than the Michael Milliken's? One can only imagine what Fortune 500 company Milliken, and like-minded associates would have created if he/they were adjudicated differently. By the way, Mr. Milliken pleaded guilty to non-RICO counts but the threat of life in prison was the sword of Damocles over him.

Let us also look at the present guilty plea by Cohen. He is pleading guilty to being a poor manger! So let us look at the application of this law to other industries:

Let us look at similar "groups" to see how RICO would apply in the future

- 1 Let us look at an aircraft carrier with 5000 men and women all elegantly trained and disciplined. Cohen/SAC Capital had 4000 employees so this is similar in size. Here on an aircraft carrier there are rapes, pregnancies, fights and other "illegal" behavior despite all "employees" being sworn to duty and trained repeatedly in

their job responsibilities. In Cohen's operation, the employees were to scout for economic openings where trades could be applied. Often this job appeals to the most aggressive "type A" personality supervision in the pursuit of information and not easily supervised.

- 2 Let us look at a multi national bank or financial institution where there is language and a multiplicity of country-to-country laws. Often the only employees who have access to the regulators are relatives of the rulers. This creates another host of issues. We are applying US standards to a world market thirsting for growth and often run by a few self appointed in power. There are bound to be problems and this is why Bankers are silent.
- 3 A look at a large city police force such as Los Angeles may be a better example. Do we want to prosecute the chief of police for the activities of an employee or a group of employees? Too late, already done! (Rampart Scandal)
- 4 Let us apply RICO to another active, aggressive well-educated group. The White House Press Corps. Let's look over each reporter's emails and phone records for the past 5 years! An educated guess is that over 20% of those records will spark and initiate a RICO inquiry and possibly 10% will lead to formal charges and convictions.
- 5 The Vatican Bank has many scandals. It seems to indicate that a RICO statute can be applied. This would (G-D forbid) put The Holy Father/The Pope as a target. So too, would be the Saintly Sister Teresa who solicited money in the US for medications and dispensed the medications without a license.
- 6 Insider information privileged information is leaked all the time, even with fanfare. RICO does not differentiate. "Whisper numbers" are leaked to the press from company attorneys, their public relations consultants, off the record interviews. Carl Ichan can speak directly with the Apple CEO and receive privileged guidance. You, as an outside investor with a few hundred shares cannot. When you call Apple you are redirected to their investor page on the web site. When Mr. Ichan calls Apple why is the call not broadcast live for all of us to hear? RICO wants a perfect world not the world of the free market systems. "Whisper numbers" are leaked to stabilize the markets and avoid rumors and price fluctuations rife in a free market.

Steve Cohen is a Horatio Alger story, Steve Cohen has a gift of the markets a once in a generation genius. He worked his way through university of Pennsylvania playing cards, calculating the risks. He read the Wall Street tape from Wall Street decades ago before internet and regularly made \$300,000 a month for his employer, a fortune at that time.

Dear Reader, Dear Judge and Prosecutor. Others such as Carl Ichan may have success with their few trades; Mr. Cohen has made tens of thousands of trades. Why not "punish"



Mr. Cohen with conducting a series of classes at the 92Y teaching his thinking and trading strategy. Let Mr. Cohen teach others to trade and broadcast the classes so the many here and abroad can learn also. A real "who wants to be a millionaire" live series, I predict thousands will follow the classes online. Mr.. Cohen is a Renaissance man and will discuss his hundreds of reading sources and decades of research that will tantalize the audiences. The present perception is that Mr. Cohen receives buy/sell tips gangster type from a public pay phone from "GUITO" or wears a red carnation with a violin case at a designated street corner.

#### PERJIMONY

Last but not lease is the intense pressure for an accused under RICO to avoid incarceration. The prosecutor may be after a higher up target and needs testimony to convict from an employee or associate who was in close association with the real target "Mr. Big."

A new word has been used to describe the testimony. The accused lies under oath to comply with the needs of the prosecutor for the next target. Information which may be circumstantial is rewritten to be definitive in the prosecution of a new higher up target. Every few years a sitting Judge looks at an affidavit from a convicted felon with a long arrest record and throws it out of court saying "it is unbelievable". A great chorus of rebuttal then hits the media with prosecutors chanting that this is the only way they can get such information and the other judges often support the chorus.

It may be the easy way but certainly not the "only way."

Look at Mr. Martoma's conviction. It is claimed that Mr. Martoma received inside information regarding a failure of a drug trial from a doctor who was paid thousands to oversee the drugs efficacy. Here is a paid professional who took an oath to join the medical profession. This seasoned doctor signed confidentiality agreements and then went out of his way to invite Mr. Martoma to his office then where he divulged trial results, confidential information. What was his punishment? Perjimony! The good doctor joined the prosecutor to testify against Mr. Martoma and ruined his life. But who was the real target? Mr. Cohen! The prosecutor wanted Mr. Martoma to testify against Mr. Cohen and to achieve this misguided, demented use of prosecutorial power he allowed the real criminal to walk free. The "Good Doctor," Dr Sidney Gilman was quoted as saying in a Wall Street Journal Interview that he and Martoma were "like a grain of sand"; that they really wanted Steve Cohen! This is the power of RICO.

RICO prosecutors draft affidavits they need to prosecute third parties who are the real targets. Any prosecutor who drafts a far reaching affidavit that he knows not to be true and accurate and requires a RICO target to sign under oath or they will find themselves pushed over the cliff.

These Prosecutors are guilty of crime and should be removed from public office.

Steve Cohen's "crime" may be simply that he made too much money therefore he must be guilty and the government has a law called RICO that shreds the Constitution, Bill of Rights and Due Process to prove ANY case they make up.

Sincerely

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